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Trademark Law

January 22, 2002

Board of Patent Appeals and Interferences  
Commissioner for Patents  
Washington, D.C. 20231


Re: **Application Serial No.:** 09/193,564  
**Appellants:** Jay Paul Drummond, et al.  
**Title:** Automated Banking Machine  
and System  
**Docket No.:** D-1077 +6

Sir:

Please find enclosed the Brief of Appellants pursuant to 37 C.F.R. § 1.192 in triplicate for filing in the above-referenced application.

Please charge the fee required with this filing (\$320) and any other fee due to Deposit Account 09-0428 of InterBold.

Very truly yours,

  
Ralph E. Jocke  
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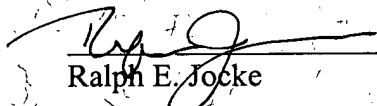
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	)	
Jay Paul Drummond, et al.	)	
	)	Art Unit 2161
Serial No.: 09/193,564	)	
	)	
Filed: November 17, 1998	)	Patent Examiner
	)	Pierre Eddy Elisca
For: Automated Banking	)	
Machine and System	)	

Board of Patent Appeals and Interferences  
Commissioner of Patents  
Washington, D.C. 20231

**BRIEF OF APPLICANTS PURSUANT TO 37 C.F.R. § 1.192**

Sir:

Applicants hereby submit their Brief in triplicate pursuant to 37 C.F.R. § 1.192.

Applicants have taken this appeal from the Office Action dated September 26, 2001.

In the Action:

claims 1-4, 7, 8, 10-14, and 17-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Anderson, et al 5,706,442 ("Anderson"); and

claims 5, 6, 9, 15, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Zeanah, et al. 4,784,274 ("Zeanah").

Applicants respectfully traverse these rejections and submit that all their claims patentably distinguish over the cited art.

#### **REAL PARTY IN INTEREST**

Diebold, Incorporated, an Ohio corporation having its principal location at 5995 Mayfair Road, North Canton, Ohio 44720 is the Assignee of all right and title to the claimed invention.

#### **RELATED APPEALS AND INTERFERENCES**

Appellants believe that there are no related appeals or interferences.

#### **STATUS OF CLAIMS**

Claims 1-20 are pending. Applicants appeal the final rejection of claims 1-20.

Claims 1-4, 7, 8, 10-14, and 17-20 were rejected under 35 U.S.C. § 102(e) over Anderson.

Claims 5, 6, 9, 15, and 16 were rejected under 35 U.S.C. § 103(a) over Anderson in view of Zeanah.

Copies of all the pending claims are included in the attached Appendix.

## **STATUS OF AMENDMENTS**

No amendments were requested to be admitted after final action.

## **SUMMARY OF INVENTION**

The exemplary embodiment of the present invention is a system and method for controlling the operation of an automated transaction machine, specifically an ATM (12) (Figure 3). The ATM enables customers to carry out banking transactions. The system includes an HTTP server (90) with HTTP records that are accessible through the server. At least one of the records includes transaction machine operating data therein. The ATM includes therein a computer with an associated memory. Software executable in the ATM computer such as a browser (76), is operative to access the at least one record through communication with the HTTP server. The software in the ATM computer is further operative to store in its associated memory, data corresponding to the machine operating data included in the at least one HTTP record that is accessed.

In an exemplary embodiment, the operating data includes or references an applet which is adapted to control operation of at least one transaction function device (36) of the ATM. Transaction function devices in the ATM may include for example, a cash dispenser, a depository, or a card reader. The ATM operates the at least one transaction function device responsive to the operating data. For example, a cash dispenser may be operated to dispense cash, or a card reader may be operated to read indicia on a card, responsive to the operating data included in an HTTP record accessed through the server by the computer in the ATM (Page 22, lines 9-19).

## **ISSUES PRESENTED FOR REVIEW**

The issues in this appeal are whether:

- 1) Anderson teaches every limitation and relationship recited in pending claims 1-4, 7, 8, 10-14, and 17-20 so as to anticipate these claims pursuant to 35 U.S.C. § 102(e); and
- 2) Anderson in view of Zeanah teaches or suggests every limitation and relationship in claims 5, 6, 9, 15, and 16 so as to render these claims obvious pursuant to 35 U.S.C. §103(a).

## **GROUPING OF CLAIMS**

Each of claims 1-20 stands or falls independently, as each separately recites features and relationships which are not disclosed or suggested in: Anderson; and Anderson in view of Zeanah. Each of claims 1-20 alone is a separate group.

## **ARGUMENT**

In the Action from which this appeal has been taken, all the pending claims (1-20) were rejected pursuant to either 35 U.S.C. § 102(e) with respect to Anderson, or 35 U.S.C. § 103(a) with respect to Anderson in view of Zeanah. Applicants respectfully submit that these rejections are improper because each pending claim specifically recites features and relationships that are neither disclosed nor suggested by these references.

### **The Anderson Reference**

Anderson is directed to a system and method for delivering financial information. The distributed system is called a "Conductor System Architecture" which is apparently a service mark of Anderson's assignee (col. 2, lines 20-25). The system permits client components and servers to work in concert to provide access to financial information (col. 1, lines 10-16; col. 2, lines 1-2). The system permits users to review activity and balances relating to different types of accounts (col. 1, lines 10-16; col. 2, lines 1-2).

Anderson's "Conductor" system is a computer software system based on a distributed architecture. Within the system, the TCP/IP protocol is used for communication between components of the system which allows access to financial information through the Internet or a proprietary network such as Compuserve® (col. 1, lines 56-62). The "Conductor" system architecture is based on a common object request broker architecture (CORBA) compliant distributed object computing platform. Primary system components include financial object servers, distributed name servers, and database servers (col. 3, lines 17-23). Financial information is stored in various databases each of which has its own access mechanism (col. 4, lines 45-52).

### **The Zeanah Reference**

Zeanah, et al. ("Zeanah") is directed to a system and method for delivering financial services to users. The disclosure of Zeanah (both the patent and the provisional application) is incomprehensible due to lack of details concerning operation of the system. Due to Zeanah's confusing and inconsistent description and lack of disclosure on how the system could be made to operate, Applicants have been required to speculate as to how the Zeanah system could be

made to operate. Therefore, the description of Zeanah herein or any comments related thereto shall not be construed as agreement or an admission by Applicants that the Zeanah system is capable of operation or of achieving any of the functions carried out by Applicants' system.

Zeanah's arrangement appears to have a delivery system (12) operatively intermediate of plural remote devices (14, 16, 18, 20, 24) and other computer data systems (e.g., a bank's internal computer system). Zeanah requires that all of the remote devices (including ATMs) communicate directly through the delivery system (12) in order to provide financial services through operation of the remote devices (Figure 1; col. 3, lines 63-67; col. 4, lines 54-56; col. 5, lines 44-60; col. 29, lines 20-35).

Zeanah's delivery system (12) acts like a host server. The remote devices pass along input data to the delivery system (12) which then performs services on behalf of the remote devices.

**The Applicable Legal Standard**  
**For Anticipation Pursuant to 35 U.S.C. § 102.**

Anticipation pursuant to 35 U.S.C. § 102 requires that a single prior art reference contain all the elements of the claimed invention arranged in the manner recited in the claim. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Anticipation under 35 U.S.C. § 102 requires in a single prior art disclosure, each and every element of the claimed invention arranged in a manner such that the reference would literally infringe the claims at issue if made later in time. *Lewmar Marine, Inc. v. Barient, Inc.*, 822 F.2d 744, 747, 3 USPQ2d 1766, 1768 (Fed. Cir. 1987).

It is respectfully submitted that Anderson does not anticipate the pending claims because the claims specifically recite features and relationships which are not disclosed or suggested by Anderson.

**Claims 1-4, 7, 8, 10-14, And 17-20 Recite Features Not Found in Anderson**

In the Action claims 1-4, 7, 8, 10-14, and 17-20 were rejected under 35 U.S.C. § (e) as being anticipated by Anderson. These rejections are respectfully traversed. Applicants' response to these rejections is based on the Office's referenced interpretation of Anderson. Thus, any change in the Office's interpretation of Anderson shall constitute a new ground of rejection.

Applicants traverse these rejections on the grounds that Applicants' claims recite features and relationships which are neither disclosed nor suggested in Anderson, and because there is no teaching, suggestion or motivation cited so as to produce Applicants' invention. The features recited in Applicants' claims patentably distinguish over the applied reference.

The Action alleges that in regard to claims 17-20 Anderson discloses a system/method for accessing recent financial information from various financial services providers and that the system of Anderson is based on a client/server so that services are accessible from a variety of presentation tools. The Action further alleges that the system of Anderson is equivalent to Applicant's claimed invention in regard to providing a plurality of documents accessible through an HTTP server, wherein at least one document includes data corresponding to operating data, wherein the operating data is adapted to control operation of at least one transaction function device of an automated transaction machine (Figure 2; Column 2, lines 21-47). Applicants disagree.



The Action further alleges that Anderson discloses accessing the at least one document through the server with a computer in an automated transaction machine, wherein the automated transaction machine includes a browser, wherein the at least one document is accessed with the browser (Column 2, lines 20-25, lines 33-39, lines 51-57; browser item 10, and financial services providers or cash dispenser). The Action also alleges Anderson discloses loading data corresponding to the operating data in a memory of the machine and operating the at least one transaction function device of the automated transaction machine responsive to the operating data (Figure 2; Column 4, lines 45-67, databases or memory). Applicants disagree.

The Action asserts that the rejections of claims 1-16 in the Office Action mailed on April 20, 2001 is maintained. In particular with regard to claims 1, 7, 8, and 10-14 the Action asserts that Anderson discloses "at least one HTTP record which included data corresponding to operating data, where the operating data is operative to control operation of an automated transaction machine" (Column 2, lines 21-47). The Action also asserts that Anderson discloses "Accessing a record data through the server with a computer in an automated transaction machine" (Column 2, lines 20-25, lines 33-39, lines 51-67). In addition the Action asserts that Anderson discloses "loading data corresponding to operating data in a memory of the machine" (Figure 2; Column 4, lines 45-67, databases or memory). Applicants disagree.

With regard to claims 2-4, the Action asserts that Anderson discloses "Accessing a document with a browser operating in a computer of the automated transaction machine or financial information)" (Column 2, lines 61-67, item 10). The Action asserts that the on-line financial service information could be interpreted as an ATM. Applicants disagree.

It is respectfully submitted that Anderson does not anticipate the pending claims because the claims specifically recite features and relationships which are not disclosed or suggested by Anderson.

### **Claim 1**

Claim 1 is an independent method claim. Claim 1 recites that the method includes (a) providing a plurality of HTTP records accessible through an HTTP server. At least one record includes data corresponding to operating data, wherein the operating data is operative to control operation of an automated transaction machine. Claim 1 further recites: (b) accessing the record data through the server with a computer in an automated transaction machine; and (c) loading data corresponding to the operating data in a memory of the automated transaction machine.

It is respectfully submitted that Anderson does not disclose each and every element and relationship recited in claim 1. For example, Anderson does not disclose or suggest "an automated transaction machine." The Action asserts that the "on-line financial service information" could be interpreted as an ATM (paragraph 6(d)). However, it is unclear how the "information" in Anderson could be interpreted as a "machine."

Rejections based on what "could" be possible are plainly improper. Rejections must be based on what is shown in the prior art. Restrictions cannot be based on mere possibilities or speculation. This is particularly true for a rejection based on alleged anticipation. It is respectfully submitted that the rejection is further legally improper for this reason.

In addition, Anderson does not disclose or suggest "wherein at least one record includes data corresponding to operating data, wherein the operating data is operative to control operation

of an automated transaction machine." The Action asserts that this feature is disclosed in the paragraph of Anderson at Column 2, lines 21-47. However nowhere in this cited paragraph does Anderson disclose or suggest records with "operating data" that is "operative to control operation of an automated transaction machine." Rather this portion of Anderson discloses only a suite of on-line interfaces that obtain and manipulate financial information for users of the system. Anderson does not disclose or suggest that the "financial information" includes operating instructions that are operative to control the operation of an ATM.

In addition Anderson does not disclose or suggest "accessing the record data through the server with a computer in an automated transaction machine." The Action asserts that Anderson discloses this step in Column 2, lines 20-25, lines 33-39, and lines 51-67. However, nowhere in this portion of Anderson is it disclosed or suggested that an HTTP record may be accessed from a server with a computer of an ATM. Rather Anderson only discloses a generic client-server relationship between computers to access financial information through a web browser. Anderson does not disclose or suggest an ATM which accesses through an HTTP server, records with operating data that is operative to control operation of the ATM. Further even if it were possible to equate one of the generic clients of Anderson with an ATM, none of the clients of Anderson access records with operating data that is operative to control the operation of an ATM.

In addition Anderson does not disclose or suggest "loading data corresponding to the operating data in a memory of the machine." The Action alleges that this feature is disclosed at Column 4, lines 45-67 and Figure 2 of Anderson. However nowhere in these portions of Anderson is it disclosed or suggested that an ATM load data corresponding to operating data into

a memory of an ATM. Rather this portion of Anderson discloses that financial information of interest to users is contained in different databases (28, 34, 40). Anderson does not disclose or suggest that these databases correspond to a memory of an ATM. Further Anderson does not disclose or suggest that the financial information stored in these databases corresponds to operating data that is operative to "control the operation" of an ATM as specifically recited.

It is respectfully submitted that Anderson does not disclose each and every element of the claimed invention arranged in the manner recited in claim 1, as is required to sustain the rejection. Hence, Applicants' claim 1 patentably distinguishes over the Anderson reference. Therefore, it is respectfully submitted that the 35 U.S.C. § 102(e) rejection has been overcome. It follows that claims 2-6 which depend from claim 1 are likewise allowable.

#### **Claim 7**

Claim 7 is an independent claim directed to a system. Claim 7 recites that the system comprises an HTTP server, and a plurality of records accessible through the server. At least one of the records includes transaction machine operating data therein. Claim 7 further recites that the system includes an automated transaction machine. The automated transaction machine includes a computer and the computer includes a memory. In addition claim 7 recites that the system includes software executable in the computer. The software is operative to access the at least one record and to store data corresponding to the machine operating data in the memory of the automated transaction machine.

As discussed previously with respect to claim 1, Anderson does not disclose or suggest an "automated transaction machine." Further Anderson does not disclose or suggest transaction

machine operating data, or a record accessible through an HTTP server that includes the ATM operating data therein. Further, Anderson does not disclose or suggest that software in an ATM is operative to access the record which includes ATM operating data therein. In addition Anderson does not disclose or suggest software in an ATM that is operative to store data corresponding to ATM operating data in the memory of the ATM.

It is respectfully submitted that Anderson does not disclose each and every element of the claimed invention arranged in the manner recited in claim 7, as is required to sustain the rejection. Applicants' claim 7 patentably distinguishes over the Anderson reference, and it is respectfully submitted that the 35 U.S.C. § 102(e) rejection has been overcome. It follows that claims 8-16 which depend from claim 7 are likewise allowable.

#### **Claim 17**

Claim 17 is an independent claim which is specifically directed to a method. The method includes (a) providing a plurality of documents that are accessible through an HTTP server. At least one document includes data corresponding to operating data, and the operating data is adapted to control operation of at least one transaction function device of an automated transaction machine. The method further includes (b) accessing the at least one document through the HTTP server with an automated transaction machine. The automated transaction machine includes a browser, such that the at least one document is accessed with the browser. The method further includes (c) loading data corresponding to the operating data in a memory of the automated transaction machine; and (d) operating at least one transaction function device of the automated transaction machine responsive to the ATM operating data that has been loaded

into the memory of the machine. All of these features and relationships are not found in Anderson.

Anderson discloses a browser (10) that is operative to access financial information from a web server (20). Anderson does not disclose an ATM or an ATM with a browser. However, even if any portion of Anderson could be considered as disclosing an ATM with a browser (which it does not), Anderson still does not disclose each and every feature recited in claim 7. For example Anderson does not disclose or suggest at least one document accessible through an HTTP server that includes data corresponding to operating data. Further, Anderson does not disclose or suggest that such operating data in the at least one document is adapted to control operation of at least one transaction function device of an ATM.

The Action asserts that these features are disclosed in Anderson at: Figure 2; Column 2, lines 21-47; and Column 4, lines 45-67. Applicants disagree. These portions of Anderson disclose only a system with a suite of on-line interfaces that obtain and manipulate financial information from databases for users of the system. Nowhere in Anderson is there disclosed or suggested a transaction function device of an ATM. Further, nowhere in Anderson is there disclosed or suggested a document with "operating data" that is adapted to control operation of at least one transaction function device of an ATM.

As discussed previously, Anderson does not disclose or suggest an ATM that accesses at least one document through an HTTP server. In addition, Anderson does not disclose or suggest an ATM that uses a browser to access the at least one document. Also as discussed previously, Anderson does not disclose or suggest loading data corresponding to the operating data in a

memory of an ATM. Anderson further does not disclose operating the at least one transaction function device of the ATM responsive to the operating data.

It is respectfully submitted that Anderson does not disclose each and every element of the claimed invention arranged in the manner recited in claim 17, as is required to sustain the rejection. Hence, Applicants' claim 17 patentably distinguishes over the Anderson reference. Therefore, it is respectfully submitted that the 35 U.S.C. § 102(e) rejection has been overcome. It follows that claims 18-20 which depend from claim 17 are likewise allowable.

**Claims That Depend From Claims 1, 7 and 17 Recite Features  
Which Are Not Found In Anderson**

Each of the dependent claims depends directly or indirectly from an independent claim. Each independent claim has been previously shown to be allowable. It is asserted that the dependent claims are allowable on the same basis. Furthermore, each of the dependent claims additionally recites specific steps, features, and relationships that patentably distinguish the claimed invention over the applied art. None of the references, taken alone or in combination, disclose or suggest the steps, features, and relationships that are specifically recited in the dependent claims. Thus, it is respectfully submitted that these dependent claims are further allowable due to the recitation of such additional steps, features, and relationships.

**Claim 2**

Claim 2 depends from claim 1 and further recites that in step (a) a plurality of HTML documents are provided which are accessible through the server. The plurality of HTTP records

include the plurality of HTML documents. Claim 2 further recites that step (b) includes accessing a document with a browser operating in a computer of the automated transaction machine.

It is respectfully submitted that Anderson does not disclose or suggest HTML documents which include operating data operative to control the operation of an ATM. Further, Anderson does not disclose or suggest a browser operating in a computer of an ATM. In addition Anderson does not disclose an ATM that accesses with a browser, an HTML document that includes operating data that is operative to control the operation of the ATM.

The Action alleges that these features are disclosed in Anderson at Column 2, lines 61-67. Although this cited portion of Anderson discloses clients with a web browser (10), Anderson does not disclose or suggest that such a browser operates in a computer of an ATM. Further, even if it were possible to equate the clients of Anderson with an ATM (which it is not), Anderson still does disclose that such clients access HTML documents with operating data for controlling the operation of an ATM. As nothing in the applied art discloses or suggests these features, it is respectfully submitted that claim 2 is further allowable on this basis.

### **Claim 3**

Claim 3 depends from claim 2 and further recites that the document includes instructions, and that in step (c) the operating data is loaded in memory responsive to the instructions in the document. Anderson does not disclose or suggest accessing a document with instructions using a browser operating in a computer of an ATM. Anderson further does not disclose or suggest loading operating data in a memory of an ATM responsive to instructions in a document. As the



cited art does not disclose or suggest these features, it is respectfully submitted that claim 3 is further allowable for these reasons.

#### **Claim 4**

Claim 4 depends from claim 1 and further recites that prior to step (c) the method further includes providing to the server data representative of an identity of the machine. Claim 4 further recites that the record data accessed in step (b) is accessed responsive to the identity data. Anderson does not disclose or suggest providing to an HTTP server, data representative of an identity of an ATM. In addition Anderson does not disclose or suggest accessing HTTP record data responsive to an identity of an ATM. As nothing in the applied art discloses or suggests these features, it is respectfully submitted that claim 4 is further allowable on this basis.

#### **Claim 8**

Claim 8 depends from independent claim 7 and recites that the transaction machine further comprises at least one transaction function device in operative connection with the computer. The transaction function device is changeable from a first condition to a second condition. Claim 8 further recites that the system further includes a second record accessible through the HTTP server. The second record includes further machine operating data. The software executable in the computer in the automated transaction machine is further operative to access the second record and to store data corresponding to the further machine operating data in the memory of the machine responsive to a change in condition of the transaction function device.

As discussed previously, Anderson does not disclose or suggest an ATM. In addition Anderson does not disclose or suggest that the ATM further includes a transaction function device that is changeable from a first condition to a second condition. The Action alleges that Anderson discloses an ATM with a transaction function device in Figure 2 and in Column 2, lines 21-47. However, nowhere in this cited portion of Anderson is there discussed an ATM or a transaction function device of an ATM, or any other device of an ATM that is operative to change from a first condition to a second condition. Rather this portion of Anderson discloses only a suite of on-line interfaces that obtain and manipulate financial information for users of the system. Anderson does not disclose or suggest transaction function devices of an ATM.

In addition, even if it were possible to equate any of the devices of Anderson with a transaction function device of an ATM (which it is not), Anderson still does not disclose accessing a second record and storing data corresponding to further machine operating data in a memory of an ATM "responsive to a change in condition of the transaction function device."

Anderson does not disclose or suggest a second record accessible through an HTTP server which includes further machine operating data. Further Anderson does not disclose or suggest accessing such a second record with an ATM and storing data corresponding to the further machine operating data in ATM memory. In addition, Anderson does not disclose or suggest doing anything responsive to a change in condition of a transaction function device of an ATM. Thus Anderson does not disclose or suggest accessing the second record and storing data responsive to a change in condition of a transaction function device. As the cited art does not disclose or suggest these features, it is respectfully submitted that claim 8 is further allowable for these reasons.

### **Claim 10**

Claim 10 depends from independent claim 7 and further recites that the machine operating data includes an instruction. The computer in the automated transaction machine is operative responsive to operating data corresponding to the instruction in memory, to access an applet from the HTTP server.

In the Action mailed April 20, 2001, the Office admits that Anderson fails to disclose operating data that includes an applet. The present Action has maintained the rejection of claim 10 based on Anderson alone. Thus, it is respectfully submitted that the Office has admitted that Anderson does not disclose each and every element of the claimed invention arranged in the manner recited in claim 10, as is required to sustain the objection. Hence, Applicants' claim 10 patentably distinguishes over the Anderson reference. Therefore, it is respectfully submitted that the 35 U.S.C. § 102(e) rejection has been overcome.

### **Claim 11**

Claim 11 depends from independent claim 7 and recites that the system further includes a data store in operative connection with the HTTP server. The plurality of records are stored in the data store. In addition claim 11 recites that the HTTP server includes a database server.

Although Anderson discloses databases (28, 34, 40) which contain financial information of interest to users of the system (Column 4, lines 48-51), Anderson does not disclose or suggest that the financial information stored in the databases (28, 34, 40) includes ATM operating data therein. Anderson does not disclose or suggest a plurality of records stored in a data store, of which at least one of the records includes ATM operating data therein. As the cited art does not

disclose or suggest these features, it is respectfully submitted that claim 11 is further allowable for these reasons.

### **Claim 12**

Claim 12 depends from independent claim 7 and further recites that the automated transaction machine includes a plurality of transaction devices. The software executable in the computer in the automated transaction machine includes a browser. The computer memory in the machine includes at least one document address which corresponds to at least one of the transaction devices in the machine. Claim 12 further recites that the system includes a plurality of documents accessible through the HTTP server. At least one document corresponding to the document address includes the operating data. The computer of the automated banking machine is operative to access the at least one document corresponding to the document address with the browser, and to store data corresponding to the machine operating data in the accessed document in the memory of the machine.

Although Anderson discloses a browser (10) that accesses financial information through communication with a web server (20), Anderson does not disclose or suggest an ATM that includes a browser. As discussed previously Anderson does not disclose or suggest an ATM or transaction devices of an ATM. Anderson also does not disclose or suggest an ATM with a document address stored in a memory which corresponds to one of the transaction devices of the ATM. Although Anderson discloses a web server (20), Anderson does not disclose or suggest a document accessible through an HTTP server which includes operating data therein. In addition

Anderson does not disclose or suggest that such a document corresponding to the document address, corresponds to a transaction device of the ATM.

Anderson does not disclose or suggest an ATM with a computer that is operative to access with a browser, a document at a document address corresponding to a transaction device in the ATM. Further Anderson does not disclose or suggest an ATM that is operative to store data corresponding to the machine operating data in the accessed document, in the memory of the ATM. As nothing in the applied art discloses or suggests these features, it is respectfully submitted that claim 12 is further allowable on this basis.

### **Claim 13**

Claim 13 depends from claim 8 and further recites that the transaction devices include a sheet dispenser. The second of the documents accessible through the HTTP server includes transaction machine operating instructions to operate the sheet dispenser. In addition claim 13 recites that the software in the automated transaction machine is further operative to access the second document with the browser, and to cause the sheet dispenser to operate in response to the transaction machine operating instructions included in the second document.

Anderson does not disclose or suggest a sheet dispenser. Further, Anderson does not disclose or suggest software which is operative to cause a sheet dispenser to operate in response to transaction machine operating instructions included in a document accessed with a browser. As the cited art does not disclose or suggest these features, it is respectfully submitted that claim 13 is further allowable.

#### **Claim 14**

Claim 14 depends from independent claim 7 and recites that the system further comprises a network operatively connecting the computer in the automated transaction machine and the HTTP server, wherein the computer is operative to access the at least one record through the network.

Anderson does not disclose or suggest an ATM with a computer that is operative to access a record that includes transaction machine operating data, through a network and an HTTP server. As nothing in the applied art discloses or suggests these features, it is respectfully submitted that claim 14 is further allowable on this basis.

#### **Claim 18**

Claim 18 depends from independent method claim 17 and further recites that in step (d) the at least one transaction function device includes a cash dispenser, and that the operating data includes an applet. In addition claim 18 recites that step (d) further includes dispensing cash from the cash dispenser responsive to the applet.

Anderson does not disclose or suggest a cash dispenser. Also in the Action mailed April 20, 2001, the Office admits that Anderson fails to disclose operating data that includes an applet. This constitutes an admission by the Office that claim 18 is not anticipated. In addition Anderson does not disclose or suggest dispensing cash from a cash dispenser responsive to an

applet. Thus, it is respectfully submitted that Anderson does not disclose each and every element of the claimed invention arranged in the manner recited in claim 18, as is required to sustain the objection. Hence, Applicants' claim 18 patentably distinguishes over the Anderson reference. Therefore, it is respectfully submitted that the 35 U.S.C. § 102(e) rejection has been overcome.

#### **Claim 19**

Claim 19 depends from independent method claim 17 and further recites: (e) accessing an applet with the automated transaction machine responsive to the operating data. In addition claim 19 recites that step (d) includes operating the at least one transaction function device responsive to the applet.

As discussed previously, Anderson does not disclose or suggest having operating data in at least one document that is adapted to control operation of at least one transaction function device of an ATM. In addition Anderson does not disclose or suggest an ATM that accesses an applet responsive to the operating data. Further, Anderson does not disclose or suggest operating a transaction function device of an ATM responsive to the applet. As nothing in the applied art discloses or suggests these features, it is respectfully submitted that claim 19 is further allowable on this basis.

#### **Claim 20**

Claim 20 depends from claim 19 and recites that the at least one transaction function device that is operated in step (d) includes a cash dispenser.

Anderson does not disclose or suggest a cash dispenser. Further Anderson does not disclose or suggest operating a cash dispenser of an ATM responsive to an applet. As nothing in the applied art discloses or suggests these features, it is respectfully submitted that claim 20 is further allowable on this basis.

**The Applicable Legal Standard For Obviousness**  
**Pursuant to 35 U.S.C. § 103(a).**

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie obviousness*. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. MPEP § 2142. Even if all the recited elements and relationships are known in the prior art, obviousness still cannot be found unless the prior art contains a teaching suggestion or motivation to produce the recited combination.

Absent a showing of a teaching, suggestion or motivation to produce a claimed combination, an obviousness rejection is not proper. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

The teaching, suggestion or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).



It is respectfully submitted that the pending claims are not obvious in light of Anderson in view of Zeanah. These references do not disclose all of the elements and relationships recited in the claims, and there is no showing of a teaching, suggestion or motivation in these references to produce Applicants' claimed combination.

**Claims 5, 6, 9, 15, 16 Are Not Obvious Over Anderson In View Of Zeanah**

In the Action claims 5, 6, 9, 15, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Zeanah. These rejections are respectfully traversed. Applicants' response to these rejections is based on the Office's stated interpretations of Anderson and Zeanah. Thus, any change in the Office's interpretation of these references shall constitute a new ground of rejection.

Applicants traverse these rejections on the grounds that Applicants' claims recite features and relationships which are neither disclosed nor suggested in the prior art, and because there is no teaching, suggestion or motivation cited so as to produce Applicants' invention. The features recited in Applicants' claims patentably distinguish over the applied references.

With regard to claims 5, 6, 9, 15, and 16, the Action asserts that these claims are obvious because Zeanah discloses "operating data that includes applets or java" (Column 19, lines 26-33; Column 22, lines 26-30; Column 28, lines 41-48; Abstract). Applicants disagree.

It is respectfully submitted that the pending claims are not obvious in view of Anderson in view of Zeanah. Neither Anderson nor Zeanah alone or in combination, discloses or suggests the features and relationships that are specifically recited in the claims. Nor is there any

teaching, suggestion, or motivation cited for combining features of the cited references so as to produce Applicants' invention.

#### **Claim 5**

Claim 5 depends from claim 1 and recites that step (a) includes providing the plurality of HTTP records in a data store in operative connection with the HTTP server, such that the records include operating data, and such that the operating data includes applets.

As admitted by the Office in the Action mailed April 20, 2001, Anderson fails to disclose operating data that includes applets. This prior Action alleges that Zeanah discloses applets and that it would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify Anderson to include an applet as taught by Zeanah. However, neither Anderson nor Zeanah discloses or suggests a data store which includes a plurality of records with operating data that is operative to control operation of an ATM. Further neither reference discloses that such operating data includes applets.

Thus, neither Anderson nor Zeanah alone or in combination, discloses or suggests the features and relationships that are specifically recited in the claim. As nothing in the cited art discloses or suggests the features and relationships that are specifically recited in claim 5, and because there is no teaching, suggestion or motivation cited for combining features of the cited references so as to produce Applicants' invention, it is respectfully submitted that claim 5 is allowable for these reasons. Therefore, it is respectfully submitted that the 35 U.S.C. § 103(a) rejection should be withdrawn.

### **Claim 6**

Claim 6 depends from claim 1 and further recites that step (a) includes providing the plurality of HTTP records in a data store in operative connection with the HTTP server, such that the records include operating data, and such that the operating data includes instructions executable by a computer to access applets.

As discussed previously, neither Anderson nor Zeanah discloses nor suggests a data store which includes a plurality of records with operating data that is operative to control operation of an ATM. In addition, neither reference discloses nor suggests that such operating data includes instructions executable by a computer to access applets. As the cited art does not disclose or suggest these features, it is respectfully submitted that claim 6 is further allowable for these reasons.

### **Claim 9**

Claim 9 depends from claim 7 and further recites that the machine operating data includes an applet. Neither Anderson nor Zeanah discloses or suggests an ATM with software that is operative to access through an HTTP server, a record that includes transaction machine operating data therein. In addition neither reference discloses or suggests that such ATM operating data includes an applet. As nothing in the applied art discloses or suggests this feature in the manner recited, it is respectfully submitted that the claim is further allowable on this basis.

### **Claim 15**

Claim 15 depends from independent claim 7 and further recites that the machine operating data includes Active-X code. Neither Anderson nor Zeanah discloses or suggests an ATM with software that is operative to access through an HTTP server, a record that includes transaction machine operating data therein. In addition neither reference discloses or suggests that such transaction machine operating data includes Active-X code. Nothing in the applied art discloses or suggests these features, and claim 15 further distinguishes over the cited art on this basis.

### **Claim 16**

Claim 16 depends from independent claim 7 and further recites that the machine operating data includes JAVA® code. Neither Anderson nor Zeanah discloses or suggests an ATM with software that is operative to access through an HTTP server, a record that includes transaction machine operating data therein. In addition neither reference discloses or suggests that such transaction machine operating data includes JAVA® code. As the cited art does not disclose or suggest these features, it is respectfully submitted that claim 16 is further allowable for these reasons.

### **FEES FOR THIS SUBMISSION**

Please charge the fee due upon the filing of this Brief and any other fees that may be due, to the Deposit Account No. 09-0428 of InterBold.

## CONCLUSION

Each of Applicants' claims specifically recites steps, features and relationships which are not disclosed or suggested in Anderson and Zeanah. The cited references also provide no teaching, suggestion or motivation to produce the combinations recited in any of Applicants' claims. It is respectfully submitted that all of the claims should be allowed.

Respectfully submitted,



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## Appendix

Pending Claims in Application Serial No. 09/193,564

1. A method comprising:
  - (a) providing a plurality of HTTP records accessible through an HTTP server, wherein at least one record includes data corresponding to operating data, wherein the operating data is operative to control operation of an automated transaction machine;
  - (b) accessing the record data through the server with a computer in an automated transaction machine; and
  - (c) loading data corresponding to the operating data in a memory of the machine.
2. The method according to claim 1 wherein in step (a) a plurality of HTML documents are provided which are accessible through the server, and wherein the plurality of records include the plurality of documents, and wherein step (b) comprises accessing a document with a browser operating in a computer of the automated transaction machine.
3. The method according to claim 2 wherein the document includes instructions, wherein in step (c) the operating data is loaded in memory responsive to the instructions in the document.

4. The method according to claim 1 and prior to step (c) further comprising the step of providing to the server data representative of an identity of the machine, wherein the record data accessed in step (b) is accessed responsive to the identity data.

5. The method according to claim 1 wherein step (a) comprises providing the plurality of records in a data store in operative connection with the server, wherein the records include operating data, wherein the operating data includes applets.

6. The method according to claim 1 wherein step (a) comprises providing the plurality of records in a data store in operative connection with the server, wherein the records include operating data, wherein the operating data includes instructions executable by a computer to access applets.

7. A system comprising:

an HTTP server, and a plurality of records accessible through the server, at least one of the records including transaction machine operating data therein;

an automated transaction machine, the transaction machine including a computer, the computer including a memory; and

software executable in the computer, wherein the software is operative to access the at least one record and to store data corresponding to the machine operating data in the memory of the machine.

8. The system according to claim 7 wherein the transaction machine further comprises at least one transaction function device in operative connection with the computer, and

wherein the transaction function device is changeable from a first condition to a second condition, and further comprising a second record accessible through the HTTP server, wherein the second record includes further machine operating data and wherein the software executable in the computer is further operative to access the second record and to store data corresponding to the further machine operating data in the memory responsive to a change in condition of the transaction function device.

9. The system according to claim 7 wherein the machine operating data includes an applet.

10. The system according to claim 7 wherein the machine operating data includes an instruction, and wherein the computer is operative responsive to operating data corresponding to the instruction in memory to access an applet from the HTTP server.

11. The system according to claim 7 and further comprising a data store in operative connection with the HTTP server, wherein the plurality of records are stored in the data store, and wherein the HTTP server includes a database server.

12. The system according to claim 7 wherein the automated transaction machine includes a plurality of transaction devices, and wherein the software executable in the computer includes a browser, and wherein the memory includes at least one document address, wherein the document address corresponds to at least one of the transaction devices in the machine, and further comprising a plurality of documents accessible through the HTTP server, wherein at least one document corresponding to the document address includes the operating data, and wherein the computer is operative to access the one document corresponding to the document address with the browser and to store data corresponding to the machine operating data in the accessed document in the memory of the machine.



13. The system according to claim 8 wherein the transaction devices include a sheet dispenser, and wherein a second of the documents accessible through the HTTP server includes transaction machine operating instructions to operate the sheet dispenser, wherein the software is further operative to access the second document with the browser and operates the sheet dispenser in response to the transaction machine operating instructions.

14. The system according to claim 7 and further comprising a network operatively connecting the computer and the HTTP server, wherein the computer is operative to access the at least one record through the network.

15. The system according to claim 7 wherein the machine operating data includes Active-X code.

16. The system according to claim 7 wherein the machine operating data includes JAVA® code.

17. A method comprising:

- (a) providing a plurality of documents accessible through an HTTP server, wherein at least one document includes data corresponding to operating data, wherein the operating data is adapted to control operation of at least one transaction function device of an automated transaction machine;
- (b) accessing the at least one document through the HTTP server with an automated transaction machine, wherein the automated transaction machine includes a browser, wherein the at least one document is accessed with the browser;

- (c) loading data corresponding to the operating data in a memory of the automated transaction machine; and
- (d) operating the at least one transaction function device of the automated transaction machine responsive to the operating data.

18. The method according to claim 17, wherein in step (d) the at least one transaction function device includes a cash dispenser and the operating data includes an applet, wherein step (d) further includes dispensing cash from the cash dispenser responsive to the applet.

19. The method according to claim 17, and prior to step (d) further comprising:

- (e) accessing an applet with the automated transaction machine responsive to the operating data; and

wherein step (d) includes operating the at least one transaction function device responsive to the applet.

20. The method according to claim 19, wherein the at least one transaction function device includes a cash dispenser.